



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604 3590

REPLY TO THE ATTENTION OF

NOV 13 2003

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rick Neerhof, Plant Engineer
Nemschoff Chairs, Inc
2218 Julson Court
Sheboygan, Wisconsin 53081

Re Finding of Violation
Nemschoff Chairs, Inc.
Sheboygan, Wisconsin

Dear Mr. Neerhof:

The United States Environmental Protection Agency ("EPA" or "we") is issuing the enclosed Finding of Violation ("FOV") to Nemschoff Chairs, Inc. ("you"). We find that, at your Sheboygan, Wisconsin facility, you are violating Section 112 of the Clean Air Act ("Act"), 42 U.S.C. § 7412, and its implementing regulations at 40 C.F.R. Part 63. We also find that you are violating Title V of the Act, 42 U.S.C. §§ 7661 et seq., and its implementing regulations at 40 C.F.R. Part 70.

We have several enforcement options under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order, or bringing a civil or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the FOV.

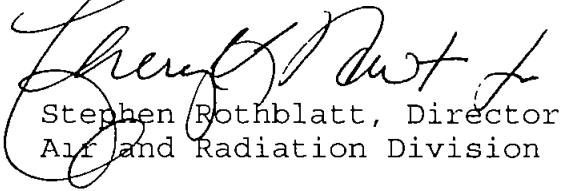
We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you the opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations of this nature.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures

and commitments. You may have an attorney represent you at this conference. Please be informed that EPA will be represented by counsel at the conference.

The EPA contact in this matter is Noel Vargas. You may call him at (312) 353-3575 to request a conference. You should make this request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely yours,



Stephen Rothblatt, Director
Air and Radiation Division

Enclosure

cc: Lloyd Eagan, Director
Bureau of Air Management
Wisconsin Department of Natural Resources

Lakshmi Sridharan, Regional Air Leader
Southeast Region
Wisconsin Department of Natural Resources



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV 13 2003

REPLY TO THE ATTENTION OFFICE

(AE-17J)

Lloyd Eagan, Director
Bureau of Air Management
Wisconsin Department of Natural Resources
101 S. Webster Street
P.O. Box 7921
Madison, Wisconsin 53707

Re: Finding of Violation
Nemschoff Chairs, Inc.
Sheboygan, Wisconsin

Dear Ms. Eagan:

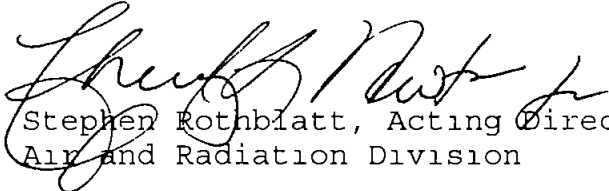
Enclosed is a copy of the Finding of Violation (FOV) that the United States Environmental Protection Agency issued today to Nemschoff Chairs, Inc. (Nemschoff). We find that Nemschoff, located at 2218 Julson Court and 3115 N 21st Street in Sheboygan, Wisconsin, is violating provisions under Section 112 and Title V of the Clean Air Act.

Specifically, Nemschoff has violated the requirements of the Wood Furniture NESHAP at 40 C.F.R. Part 63, Subpart JJ. Nemschoff's combined facilities in Sheboygan, Wisconsin, constitute a major source of hazardous air pollutants. As a result, Nemschoff is subject to all applicable requirements of Subpart JJ. In addition, because these facilities constitute a "major source," the company should have applied for a Title V permit. Documentary evidence gathered during our inspection on May 16, 2003, and from a June 30, 2003 request for information substantiates Nemschoff's non-compliance with the regulations.

Section 113 of the Clean Air Act, 42 U.S.C. § 7413, gives us several enforcement options including issuing an administrative compliance order, issuing an administrative penalty order, or

bringing a civil or criminal action. We hope that this FOV will substantially aid Nemschoff's efforts to comply immediately.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Stephen Rothblatt", is written over the typed name and title.

Stephen Rothblatt, Acting Director
Air and Radiation Division

Enclosure

cc. Lakshmi Sridharan, Regional Air Leader
Southeast Region
Wisconsin Department of Natural Resources

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	
Nemschoff Chairs, Inc.)	FINDING OF VIOLATION
Sheboygan, Wisconsin)	
)	EPA-5-04-WI-02
Proceedings Pursuant to)	
the Clean Air Act,)	
42 U.S.C. §§ 7401 <u>et seq.</u>)	
_____)	
)	

Finding of Violation

The United States Environmental Protection Agency (U.S. EPA) hereby notifies the State of Wisconsin and Nemschoff Chairs, Inc. (Nemschoff) that U.S. EPA finds that Nemschoff, located at 2218 Julson Court and 3115 N. 21st Street, Sheboygan, Wisconsin, is in violation of the Clean Air Act (Act), 42 U.S.C. §§ 7401 et seq. Nemschoff is in violation of Section 112 of the Act, 42 U.S.C. § 7412, and regulations setting forth the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Wood Furniture Manufacturing Operations (Wood Furniture NESHAP), at 40 C.F.R. Part 63, Subpart JJ. Nemschoff is also in violation of Title V of the Act, 42 U.S.C. §§ 7661 et seq., and applicable regulations at 40 C.F.R. Part 70, as follows:

Regulatory Authority

NESHAP

1. On March 16, 1994, in accordance with Section 112(d) of the Act, U.S. EPA promulgated General Provisions for the NESHAP regulations at 40 C.F.R. Part 63, Subpart A, §§ 63.1 - 63.15.
2. On December 7, 1995, in accordance with Section 112(d) of the Act, U.S. EPA promulgated the Wood Furniture NESHAP at 40 C.F.R. Part 63, Subpart JJ, §§ 63.800 - 63.808.
3. The requirements at Subpart JJ apply to each "affected source," which is defined as each facility engaged, either in part or in whole, in the manufacture of wood furniture or wood furniture components and that is located at a plant

site that is a major source of Hazardous Air Pollutants (HAP), as defined in 40 C F R. § 63.2. 40 C F.R. § 63.800(a).

4. A "major source" of HAP is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAP, unless the Administrator establishes a lesser quantity, or in the case of radionuclides, different criteria from those specified in this sentence. 40 C.F.R. § 63.2.
5. 40 C F.R. § 63.9(b)(2) requires the owner or operator of an affected source that has an initial start-up before the effective date of a relevant standard under this part to notify the Administrator in writing that the source is subject to the relevant standard. Under 40 C.F.R. Part 63, Subpart JJ (Table 1), existing sources are required to submit an initial notification report within 270 days of the effective date.
6. 40 C.F.R. § 63.9(h)(2)(ii) requires the owner or operator of an affected source to submit to the Administrator a notification of compliance status, signed by the responsible official who shall certify its accuracy, attesting to whether the source has complied with the relevant standard, within 60 days of the compliance date.
7. 40 C.F.R. § 63.807(c)(2) requires the owner or operator of an affected source to submit subsequent reports 30 calendar days after the end of each 6-month period following the first report.
8. 40 C.F.R. § 63.802(a) requires each owner or operator of an existing affected source to limit Volatile Hazardous Air Pollutant (VHAP) emissions from finishing operations by meeting the emission limitations for existing sources in Subpart JJ using any of the compliance methods listed in 40 C.F.R. § 63.804(a)(1) - (a)(4).
9. 40 C.F.R. § 63.806(b)(2) requires the owner of operator of an affected source subject to the emission limits of Subpart JJ to maintain records of the VHAP content, in kg VHAP/kg solids (lb VHAP/lb solids), as applied, of each finishing material and contact adhesive subject to the emission limits in 40 C.F.R. § 63.802.

10. 40 C.F.R. § 63.803 (a) requires each owner or operator of an affected source to prepare and maintain a written work practice implementation plan that defines environmentally desirable work practices for each wood furniture manufacturing operation. The plan is required to be developed no more than 60 days after the compliance date.
11. 40 C.F.R. § 63.803 (l)(1) requires each owner or operator of an affected source to prepare and maintain with the work practice implementation plan a formulation assessment plan that identifies VHAPs from the list presented in Table 5 of Subpart JJ.
12. 40 C.F.R. § 63.800 (e) specifies that the compliance date for existing affected sources that emit less than 50 tons per year of any HAP in 1996 is December 7, 1998.

Title V

13. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) state that no major source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the Act.
14. Section 503(d) of the Act, 42 U.S.C. § 7661b(d), and 40 C.F.R. § 70.5(a) provide that major source owners and operators must timely submit an application for a Title V permit, including all required information.
15. For purposes of Title V, a "major source" is defined as any stationary source or (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in 40 C.F.R. § 70.2 (b)(1). Under 40 C.F.R. §70.3(a), sources subject to requirements under Section 112 of the Act are subject to Title V permitting requirements.
16. The U.S. EPA promulgated final interim approval of the Wisconsin Title V program on April 5, 1995 (60 Fed. Reg. 12128), and the program became effective on April 5, 1995. The U.S. EPA promulgated final full approval of this program on November 30, 2001 (66 Fed. Reg 62951), and it became effective on November 30, 2001.

Factual Background

17. Nemschoff owns and operates two wood furniture manufacturing facilities, located at 2218 Julson Court and 3115 N. 21st Street, Sheboygan, Wisconsin ("the combined facilities").
18. The combined facilities had an initial start-up before the effective date of the NESHAP for wood furniture manufacturing operations.
19. During the calendar years 1996 through 2002, the combined facilities emitted or had the potential to emit 25 tons per year or more of HAP, as follows:

Calendar Year	Actual Emissions (tpy)	Potential emissions (tpy)
1996	34.45	77.6
1997	14.76	33.34
1998	13.94	31.59
1999	13.95	31.44
2000	14.34	28.52
2001	16.73	30.08
2002	10.56	32.81

20. Since 1996, the combined facilities have been and continue to be a major source of HAP due to their potential to emit 25 tons per year or more of HAP.
21. Nemschoff's actual emissions of HAP in 1996 were less than 50 tpy.
22. Nemschoff did not notify EPA in writing that it was subject to Subpart JJ and did not submit such notification 270 calendar days after the effective date of the standard.
23. Nemschoff has not limited VHAP emissions from finishing operations by meeting the emission limitations for existing sources by using one of the three compliance methods listed at 40 C.F.R. § 63.804 (a)(1) through (a)(4), as follows:

<u>Coating name and id code</u>	<u>Coating type</u>	<u>MACT limit</u>	<u>VHAP content</u>
Flow additive VSP0112	sealer	1.0 lb VHAP/lb solid	42.86 lb VHAP/lb solid

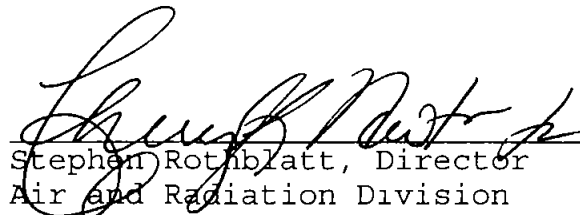
24. Nemschoff did not submit notification of compliance status within 60 days of the compliance deadline of December 7, 1998.
25. Nemschoff did not submit subsequent reports 30 calendar days after the end of each 6-month period following the first report.
26. Nemschoff did not prepare and maintain a written work practice implementation plan that defines environmentally desirable work practices for each wood furniture manufacturing operation.
27. Nemschoff did not prepare a formulation assessment plan for formaldehyde as part of the work practice implementation plan.
28. Nemschoff did not apply for and obtain an operating permit from the permitting authority, in accordance with Title V and 40 C.F.R. Part 70.

Violations

29. Nemschoff's failure to submit to EPA an initial notification report indicating that its source was subject to Subpart JJ within 270 days after the effective date is a violation of 40 C.F.R. § 63.9(b)(2).
30. Nemschoff's failure to limit HAP emissions from its finishing operations by meeting the emission limitations for existing sources, using any of the compliance methods in 40 C.F.R. § 63.804 (a)(1) through (a)(4) is a violation of 40 C.F.R. § 63.802 (a).

31. Nemschoff's failure to maintain records of the amount of finishing material, as applied, and contact adhesives, in kg VHAP/kg solids (lb VHAP/lb solids), is a violation of 40 C.F.R. § 63.806 (b) (2).
32. Nemschoff's failure to submit notification of compliance status at its facility 60 days after the compliance date is a violation of 40 C.F.R. § 63.9 (h) (2).
33. Nemschoff's failure to submit subsequent reports 30 calendar days after the end of each 6-month period following the first report is a violation of 40 C.F.R. § 63.807(c) (2).
34. Nemschoff's failure to prepare and maintain a written work practice implementation plan that defines environmentally desirable work practices for each wood furniture manufacturing operation, no later than 60 days after the compliance date, is a violation of 40 C.F.R. § 63.803 (a).
35. Nemschoff's failure to prepare a formulation assessment plan for formaldehyde emissions as part of the work practice implementation plan is a violation of 40 C.F.R. § 63.803 (1) (1).
36. Nemschoff's failure to submit a timely and complete Title V permit application is a violation of Sections 502 and 503 of the Act, and the regulations at 40 C.F.R. §§ 70.5(a) and 70.7(b).

11/13/03
Date


Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Finding of
Violation by Certified Mail, Return Receipt Requested, to:

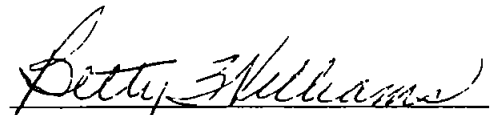
Rick Neerhof, Plant Engineer
Nemschoff Chairs, Inc.
2218 Julson Court
Sheboygan, Wisconsin 53081

I also certify that I sent copies of the Finding of
Violation by first class mail to:

Lloyd Eagan, Director
Bureau of Air Management
Wisconsin Department of Natural Resources
101 S. Webster Street
P.O. Box 7921
Madison, Wisconsin 53707

Lakshmi Sridharan, Regional Air Leader
Southeast Region
Wisconsin Department of Natural Resources
2300 North Dr. Martin Luther King Jr. Drive
Milwaukee, Wisconsin 53212

on the 17th day of November, 2003.


Betty Williams, Secretary
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 000602953499